S.B.Cr.Misc. IInd Bail App. No.5114/2007

(Ajay Verma vs. State of Rajasthan)

Date of order : November 15, 2007

HON'BLE MR.H.R.PANWAR,J.

Mr.Dhirendra Singh, for the petitioner.
Mr.Ashok Upadhyaya, Public Prosecutor.

This is second bail application filed by the petitioner. The first bail application came to be dismissed on 5.9.2007 as not pressed.

Heard learned counsel for the petitioner and the Public Prosecutor for the State. Perused the order impugned as well as the challan papers. I have also gone through the statements of the prosecution witnesses so far recorded.

It is contended by learned counsel for the petitioner that the sole eye-witness PW.1 Sakshi Verma, the daughter of the deceased did not support the prosecution case and turned hostile. The other witnesses viz. PW.2 Kalu Singh and PW.4 Dharm Singh have also not supported the prosecution case and turned hostile. PW.5 Moti Ram is the witness to the site map, who stated that when they were taking the deceased to hospital at Jodhpur in an Ambulance, on the way, the deceased informed

that her brother wanted to take her daughter Sakshi in adoption, which she never wanted and, therefore, she was pressurized and in the heat of passion, she got burnt. It is further contended that there are two dying declarations; one has been recorded by S.D.M., Raniwara on 24.5.2007 soon after the occurrence and another by the Judicial Magistrate at 6.35 P.M. on the very day.

In the dying declaration recorded by the S.D.M. Raniwara, the deceased stated that while she was boiling the milk, she caught fire because she worn nylon garments. However, before the Judicial Magistrate, she made statement that there was a telephone of a girl to her husband, which she objected, on which her husband burnt her; at the relevant time, she was in the garden. Learned counsel for the petitioner invited my attention to the site map and site inspection note, wherein the occurrence has been shown not in the garden but in the Chauk of the house.

Be that as it may, since PW.1 Sakshi did not support the prosecution case and there are two dying declarations; in one of the dying declarations, the deceased did not implicate the petitioner, without commenting on the merit of the case, which may prejudice the case of either party at the trial, I consider it just and proper to enlarge the accused petitioner on bail.

Accordingly, the bail application filed under Sec. 439 Cr.P.C. is allowed and it is directed that petitioner Ajay Verma s/o Nathuni Prasad Verma be released on bail in FIR No. 89/2007, P.S., Raniwara, Distt. Jalore provided he furnishes a personal bond in a sum of Rs.20,000/- with two sound and solvent sureties in the sum of Rs.10,000/- each to the satisfaction of learned trial court for his appearance before that court on each and every date of hearing and whenever called upon to do so till the completion of the trial.

(H.R.PANWAR),J.

m.asif/-